

## **10003-AR Illegal Discrimination, Harassment or Retaliation**

**10003-AR deleted and replaced with the following effective 1/15/2021.**

### **10003.1-AR Illegal Discrimination, Harassment or Retaliation**

The Board of Education has adopted anti-discrimination and anti-harassment policies that prohibit illegal discrimination and harassment in the School District's programs and activities by, among others, Board members, School District employees, and students. A student, employee, or any other person who believes a student or employee has been the victim of illegal discrimination or harassment may see resolution of the matter through the procedures that follow. Alleged discrimination and harassment, other than sexual harassment, will be investigated and resolved pursuant to 10003.2-AR or 10003.3-AR. Sexual harassment against employees and students will be investigated and resolved pursuant to 10003.4-AR, as required by Title IX and its implementing regulations. The School District's duty to investigate allegations of discrimination and harassment is not affected in cases where the same allegations have been reported to or are being investigated by law enforcement authorities.

### **10003.11-AR Compliance Officer and Title IX Coordinator**

The Director of Human Resources and Employee Relations, whose telephone number is 248-726-3118 and whose email address is [dmurphy@rochester.k12.mi.us](mailto:dmurphy@rochester.k12.mi.us), is the School District's Compliance Officer and Title IX Coordinator for purposes of this Administrative Regulation.

### **10003.12-AR Days**

As used in 10003.2-AR through 10003.4-AR, the word "days" means school days during the school year when school is in session and business days during the summer break.

### **10003.2-AR Illegal Discrimination, Harassment or Retaliation – Students**

#### **Generally**

Any student, or any other person, may report that a student has been the victim of illegal discrimination or harassment, other than sexual harassment, to the School District's Compliance Officer and Title IX Coordinator and seek resolution of the matter through the informal or formal procedures described in this Administrative Regulation.

## **Definitions for 10003.2**

**“Complainant”** means the student who is the alleged victim of discrimination or harassment; other than sexual harassment, which is addressed by 10003.2-AR.

**“Respondent”** means the person who allegedly discriminated against or harassed Complainant.

**“Investigator”** means the person investigating a formal complaint of discrimination or harassment.

**"Discrimination"** means behavior based, in whole or in part, on Complainant's race, color, national origin, religion, sex, marital status, genetic information, or disability. The behavior must be sufficiently severe and pervasive that it:

- Affects Complainant's ability to benefit from the School District's educational programs or activities;
- Creates an intimidating, threatening, or hostile educational environment;
- Has the effect of substantially or unreasonably interfering with Complainant's academic performance; or,
- Otherwise adversely affects Complainant's educational opportunities.

**"Harassment"** means behavior that is threatening, harmful, or humiliating and so severe, pervasive, or persistent that it:

- Affects Complainant's ability to benefit from the School District's educational programs or activities;
- Creates an intimidating, threatening, or hostile educational environment;
- Has the effect of substantially or unreasonably interfering with Complainant's academic performance; or,
- Otherwise adversely affects Complainant's educational opportunities.

## **Informal Complaint Resolution Procedure**

The informal complaint resolution procedure is a less formal option for a Complainant who believes s/he was the victim of discrimination or harassment. Resorting to the informal procedure is not required before filing a formal complaint. Moreover, at any time during the informal complaint resolution procedure, Complainant may request that the matter be moved to the formal complaint process. The informal complaint resolution procedure will not be used for complaints against District employees and other District-affiliated adults.

**Step 1** A student, or any other person, may report discrimination or harassment to: a School District employee or building administrator; the Superintendent or other central-office administrator; or, the Compliance Officer and Title IX Coordinator.

All informal complaints received by School District employees must be reported to the Compliance Officer and Title IX Coordinator within two (2) days. The Compliance Officer and Title IX Coordinator will either facilitate an informal resolution, as described below, or appoint another person to facilitate an informal resolution.

**Step 2** Depending upon the facts, circumstances, and wishes of the Complainant, informal resolution may involve, but not be limited to, one or more of the following:

- Counseling Complainant how to effectively communicate the unwelcome nature of the behavior to Respondent.
- Distributing a copy of the School District's anti-discrimination and anti-harassment policy and this Administrative Regulation as a reminder to Respondent and other individuals.
- If both parties agree, the Compliance Officer and Title IX Coordinator may arrange and facilitate a meeting between the Complainant and Respondent to work out a mutual resolution. Such a meeting may include some or all of the features of the restorative practices process described in the Revised School Code, [MCL 380.1310c](#).

**Step 3** The Compliance Officer and Title IX Coordinator will endeavor to complete the informal complaint resolution procedure within ten (10) days of receiving the informal complaint. If Complainant or Respondent is dissatisfied with the result, s/he may file a formal complaint.

All materials generated as part of the informal complaint resolution procedure will be retained in a single location under the control of the Compliance Officer and Title IX Coordinator in accordance with the Board of Education's records retention and/or Student Records policies.

### **Formal Complaint Resolution Procedure**

**Step 1** A student, or any other person, may file a formal complaint with: a School District employee; the Superintendent or other central-office administrator; or, the Compliance Officer and Title IX Coordinator. All such complaints must be forwarded to the Compliance Officer and Title IX Coordinator within two (2) days.

All formal complaints must include the following information, to the extent it is available:

- The name of Complainant and, if different, the name of the person reporting the allegation;
- The allegation, including a description of relevant incident(s), date(s), and time(s) (if known);
- The name(s) of all persons alleged to have committed discrimination or harassment, if known, or a description/identifying information if the name is not known; and,

- The name(s) or description/identifying information of all known witnesses.

If Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer and Title IX Coordinator will ask for the information in an interview. Thereafter, the Compliance Officer and Title IX Coordinator will prepare a written summary of the interview and ask Complainant to verify the accuracy of the summary by signing it.

**Step 2** Within two (2) days of receiving the formal complaint, the Compliance Officer and Title IX Coordinator, or designee (the Investigator), will initiate a formal investigation to determine whether Complainant has been subjected to discrimination or harassment.

NOTE: Upon receiving a formal complaint, the Investigator will consider whether any action should be taken during the investigation to protect Complainant from further discrimination or harassment, including, but not limited to, a no-contact order or a change of schedule for Complainant or Respondent. In making such a determination, the Compliance Officer and Title IX Coordinator will consult Complainant to assess his/her reaction to the proposed action. If Complainant disagrees with the proposed change, the Investigator may nevertheless, following consultation with the Superintendent, take whatever actions s/he deems appropriate and in the best interests of Complainant, Respondent, and the integrity of the investigation.

The Compliance Officer and Title IX Coordinator will inform Respondent that a complaint has been received. Respondent will be informed of the nature of the allegations and provided with a copy of the Board's anti-discrimination and anti-harassment policy and this Administrative Regulation. Respondent will also be provided an opportunity to submit a written response to the complaint within five (5) days. Throughout the course of the process, the Compliance Officer and Title IX Coordinator will keep both parties informed of the status of the investigation and the decision-making process.

Although certain cases may require additional time, the Investigator will endeavor to complete the investigation within fifteen (15) days of receiving the formal complaint. The investigation will include:

- Interviews with Complainant and Respondent;
- Obtaining and reviewing any written statements of Complainant, Respondent, and any other witnesses;
- Interviews with other witnesses who may have information relevant to the allegations; and,
- Consideration of any relevant documents or other information presented by Complainant, Respondent, or other witnesses.

**Step 3** At the conclusion of the investigation, the Compliance Officer and Title IX Coordinator will, within fifteen (15) days of receiving the formal complaint, prepare and

deliver a written report to the Superintendent summarizing the information gathered during the investigation and, if applicable, the date of any report to the police. The report will also provide recommendations based on the evidence. A preponderance of the evidence standard will be followed. The Compliance Officer and Title IX Coordinator's recommendations should consider the totality of the circumstances, including the ages and maturity levels of those involved. Disciplinary recommendations, if appropriate, should be reasonably calculated to prevent the recurrence of discrimination or harassment. Disciplinary recommendations may range from: counseling to permanent expulsion, in the case of a student; counseling to discharge, in the case of an employee; and, recommendation for censure or a complaint to the Governor, in the case of a Board member.

**Step 4** Absent extenuating circumstances, within ten (10) days of receiving the Compliance Officer and Title IX Coordinator's report, the Superintendent will issue a final decision or request further investigation. A copy of the Superintendent's final decision will be delivered to both parties.

If the Superintendent requests additional investigation, the Superintendent will specify the additional information that is to be gathered, and the additional investigation will be completed within ten (10) days. At the conclusion of the additional investigation, the Superintendent will issue a final written decision as described above.

#### **Filing a Complaint with the Office for Civil Rights**

Complainant, or any other person, may, at any time, file a complaint with the United States Department of Education Office for Civil Rights at:

U.S. Department of Education Office for Civil Rights Cleveland Office  
1350 Euclid Avenue, Suite 325  
Cleveland, Ohio 44115  
(216) 522-4970

#### **Cooperation with Law Enforcement Agencies**

In certain instances, allegation of discrimination and harassment may be investigated as a criminal matter. To the extent permitted by law, the District will comply with law enforcement requests for cooperation.

#### **Retaliation**

Retaliation against a person who files a complaint alleging discrimination or harassment, or participates as a witness in an investigation, is strictly prohibited. Upon a finding that a person has engaged in retaliation, appropriate disciplinary action will be taken.

## **Maintenance of Records**

All materials generated as a part of the formal complaint process will be retained in a single location under the control of the Compliance Officer and Title IX Coordinator, in accordance with the Board of Education's records retention and/or Student Records policy.

## **10003.3-AR Illegal Discrimination, Harassment or Retaliation – Employees**

### **Generally**

Any employee who believes that s/he has been the victim of illegal discrimination or harassment, other than sexual harassment, may notify the School District's Compliance Officer and Title IX Coordinator and seek resolution of the matter through the informal or formal procedures described below.

### **Definitions for 10003.3**

**“Complainant”** means the employee who is the alleged victim of discrimination or harassment; except sexual harassment, which is addressed by 10003.4-AR.

**“Respondent”** means the person who has allegedly discriminated against or harassed Complainant.

**“Investigator”** means the person investigating a formal complaint of discrimination or harassment.

**"Discrimination"** means behavior based, in whole or in part, on Complainant's race, color, national origin, religion, sex, marital status, genetic information, age, height, weight or disability that is sufficiently severe and pervasive that it:

- Creates an intimidating, hostile, or offensive environment;
- Substantially or unreasonably interferes with Complainant's work performance, opportunities, or benefits; or,
- Otherwise adversely affects Complainant's employment;

**"Harassment"** means behavior that is threatening, harmful, or humiliating and so severe, pervasive, or persistent that it:

- Creates an intimidating, hostile, or offensive environment;
- Substantially or unreasonably interferes with Complainant's work performance, opportunities, or benefits; or,
- Otherwise adversely affects Complainant's employment.

## **Informal Complaint Resolution Procedure**

The informal complaint resolution procedure is a less formal option for a Complainant who believes s/he was the victim of discrimination or harassment. Resorting to the informal procedure is not required before filing a formal complaint. Moreover, at any time during the informal complaint resolution procedure, Complainant may request that the matter be moved to the formal complaint process. The informal complaint resolution procedure will not be used for complaints alleging violence.

**Step 1** The Complainant may make an informal complaint, orally or in writing, to: the building administrator of the building to which the employee is assigned; the Superintendent or other central-office administrator; or the Compliance Officer and Title IX Coordinator.

All informal complaints must be reported to the Compliance Officer and Title IX Coordinator within two (2) days. The Compliance Officer and Title IX Coordinator will facilitate an informal resolution, as described below, or appoint another individual to facilitate an informal resolution.

**Step 2** Depending upon the facts, circumstances, and wishes of the Complainant, informal resolution may involve, but not be limited to, one or more of the following:

- Advising Complainant how to effectively communicate the unwelcome nature of the behavior to Respondent.
- Distributing a copy of the anti-discrimination and anti-harassment policy and this Administrative Regulation to Respondent and other individuals.
- If both parties agree, the Compliance Officer and Title IX Coordinator may arrange and facilitate a meeting between the Complainant and the Respondent to work out a mutual resolution. However, such a meeting will not be held where sexual violence has been alleged.

**Step 3** The Compliance Officer and Title IX Coordinator will endeavor to complete the informal complaint resolution procedure within fifteen (15) days of receiving the informal complaint. If Complainant or Respondent is dissatisfied with the results of the informal complaint resolution process, s/he may file a formal complaint.

All materials generated as part of the informal complaint resolution procedure will be retained in a single location under the control of the Compliance Officer and the Title IX Coordinator, in accordance with the Board of Education's records retention policy.

## **Formal Complaint Resolution Procedure**

**Step 1** Complainant may file a formal complaint with: the building administrator of the building to which s/he is assigned; the Superintendent or other central-office administrator; or, the Compliance Officer and Title IX Coordinator. The person with

whom a complaint is filed must report it to the Compliance Officer and Title IX Coordinator within two (2) days.

All formal complaints must include the following information to the extent it is available:

- Complainant's name and, if different, the name of the person reporting the allegation;
- The allegation, including a description of relevant incident(s), date(s) and time(s) (if known);
- The name(s) of all persons alleged to have committed discrimination or harassment, if known, or a description/identifying information if the name is not known; and,
- The name(s) or description/identifying information of all known witnesses.

If Complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer and Title IX Coordinator will ask for the details in an interview. Thereafter, the Compliance Officer and Title IX Coordinator will prepare a written summary of the interview, and Complainant will be asked to verify the summary by signing it.

**Step 2** Within two (2) days of receiving the formal complaint, the Compliance Officer and Title IX Coordinator, or designee (the Investigator), will initiate a formal investigation to determine whether Complainant has been subjected to discrimination or harassment.

NOTE: Upon receiving a formal complaint, the Investigator will consider whether any action should be taken during the investigation to protect Complainant from further discrimination or harassment, including, but not limited to, a change of work assignment or schedule for Complainant or Respondent. In making such a determination, the Investigator will consult Complainant to assess his/her reaction to the proposed action. If the Complainant is unwilling to consent to the proposed change, the Investigator may nevertheless, after consulting with the Superintendent, take whatever actions he/she deems appropriate for the protection of Complainant, Respondent, and the integrity of the investigation.

The Investigator will inform Respondent that a complaint has been received. Respondent will be informed of the nature of the allegations and provided with a copy of the Board's anti-discrimination and anti-harassment policy and this Administrative Regulation. Respondent will also be informed of the opportunity to submit a written response to the complaint within five (5) days. Throughout the course of the process, the Compliance Officer and Title IX Coordinator will keep the parties informed of the status of the investigation and the decision-making process.

Although certain cases may require additional time, the Investigator will endeavor to complete the investigation within fifteen (15) days of receiving the formal complaint. The investigation will include:

- Interviews with Complainant and Respondent;
- Obtaining and reviewing any written statements of Complainant, Respondent, and any other witnesses;



- Interviews with any other witnesses;
- Relevant documents and other information presented by Complainant, Respondent, or any other witnesses.

**Step 3** At the conclusion of the investigation, the Compliance Officer and Title IX Coordinator will, within fifteen (15) days of receiving the formal complaint, prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation, the response of School personnel, and, if applicable, the date any incident was reported to the police. The report will provide recommendations based on the evidence. The recommendations should consider the totality of the circumstances. Disciplinary recommendations, if appropriate, should be reasonably calculated to prevent recurrence of illegal discrimination or harassment. Disciplinary recommendations may range from: counseling to discharge, in the case of an employee, and censure to a complaint to the Governor, in the case of a Board member.

**Step 4** Absent extenuating circumstances, within ten (10) days of receiving the report, the Superintendent will either issue a final decision regarding whether the complaint has been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both parties.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within ten (10) days. At the conclusion of the additional investigation, the Superintendent will issue a final written decision as described above.

### **Filing a Discrimination or Harassment Complaint with State or Federal Agencies**

An employee alleging discrimination or harassment, may, at any time, file a complaint with the United States Department of Education Office for Civil Rights at:

United States Department of Education Office for Civil Rights  
Cleveland Office  
1350 Euclid Avenue, Suite 325  
Cleveland, Ohio 44115  
(216) 522-4970  
FAX: (216) 522-2573  
TDD: (216) 522-4944  
E-mail: [OCR.Cleveland@ed.gov](mailto:OCR.Cleveland@ed.gov) Web: <http://www.ed.gov/ocr>

A complaint may also, or instead, be filed with:

United States Department of Labor  
Equal Employment Opportunity Commission Detroit Field Office  
477 Michigan Avenue, Room 865  
Detroit, Michigan 48226 or

State of Michigan Department of Civil Rights  
Cadillac Place, Suite 3-600 3054 West Grand Boulevard  
Detroit, Michigan 48202

### **Cooperation with Law Enforcement Agencies**

In certain instances, an allegation of discrimination or harassment may also be investigated as a criminal matter. To the extent permitted by law, the School District will comply with law enforcement requests for cooperation.

### **Retaliation**

Retaliation against a person who files a complaint alleging discrimination or harassment, or participates as a witness in an investigation, is strictly prohibited. Upon a finding that a person has engaged in retaliation, appropriate disciplinary action will be taken.

### **Maintenance of Records**

All materials generated as a part of the formal complaint process will be retained in a single location under the control of one of the Compliance Officer and Title IX Coordinator in accordance with the Board of Education's records retention policy.

### **10003.4-AR Sexual Harassment – Employees and Students *(added 1/15/2021)***

#### **Sexual Harassment – Employees and Students**

### **Generally**

This Administrative Regulation sets forth the procedure the School District follows to investigate and resolve allegations of sexual harassment against School District employees or students. Administrative Regulations 10003.2AR and 10003.3-AR apply to illegal discrimination and harassment on other bases.

The School District's Title IX Coordinator is responsible for implementing 10003.4 -AR. The Title IX Coordinator will ensure his/her contact information is posted on the School District's website, included in the School District's annual notifications document, published in every handbook and catalogue distributed to parents and students, and conveyed to the president of every School District collective bargaining unit.

### **Definitions for 10003.4 AR**

**“Complainant”** means an employee or student who is the alleged victim of conduct that could constitute sexual harassment.

**“Respondent”** means the person who has been reported to be the perpetrator of conduct that could constitute sexual harassment against a Complainant.

**“Investigator”** means a person the Title IX Coordinator has appointed to investigate allegations of sexual harassment against a Respondent.

**“Sexual Harassment”** means, with respect to the School District’s programs and services:

- Conditioning an aid, benefit, or service on Complainant’s participation in unwelcome sexual conduct;
- Unwelcome sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies Complainant equal access to the School District’s programs or activities; or,
- “Sexual assault” as defined in [20 USC 1092\(f\)\(6\)\(A\)\(v\)](#), “dating violence” as defined in [34 USC 12291\(a\)\(10\)](#), “domestic violence” as defined in [34 USC 12291\(a\)\(8\)](#), or “stalking” as defined in [34 USC 12291\(a\)\(30\)](#).

### **Duty to Respond**

The School District has a duty to respond to alleged sexual harassment any time a School District employee reports an employee or student has been sexually harassed and any time any other person makes a report of sexual harassment to the Title IX Coordinator. School District employees are required to report all incidents of suspected sexual harassment to the Title IX Coordinator.

### **Supportive Measures**

The Title IX Coordinator, upon receiving a report of sexual harassment, will promptly contact Complainant to offer supportive measures, regardless whether a formal complaint is filed. Supportive measures are non-punitive individualized services, at no cost to Complainant, intended to restore or preserve Complainant’s access to the School District’s programs and activities without unreasonably burdening Respondent. Supportive measures may include, but are not limited to: the Title IX Coordinator’s duty to discuss options with Complainant, including explaining the process for filing a formal complaint; and, no-contact orders, counseling, course modifications, schedule changes, transfers, or increased security and monitoring. The Title IX Coordinator will take into account Complainant’s wishes before implementing supportive measures.

Action to remove Respondent from the School District prior to a final decision is not a supportive measure. However, the Title IX Coordinator may, after an individualized risk assessment of Respondent takes place, temporarily remove Respondent from the School District if s/he poses an immediate threat to the physical health or safety of Complainant or any other person. In such cases, upon removal, the Title IX Coordinator will provide Respondent with notice and an opportunity to challenge the temporary removal at the earliest possible date. The Title IX Coordinator may, after consulting with the School District’s chief human resources officer, place a Respondent-employee on temporary administrative leave. A temporary removal or administrative leave will end when a final decision is reached.

## **Formal Complaint**

A Complainant may file a formal complaint. The Title IX Coordinator may file a formal complaint even if Complainant declines to do so. The formal complaint will include: the names of Complainant and Respondent, or identifying information if Respondent's name is unknown; as complete a description of the alleged sexual harassment as is available, including dates, times, and places; actual and potential witnesses; actual and potential relevant documents, data, and other items; and, the signature of the student or the Title IX Coordinator.

## **Response to Formal Complaint and Grievance Procedure**

The Title IX Coordinator will ensure that, at every step of the Grievance Procedure: the parties are treated equitably; all information and evidence is evaluated objectively; and, there are no conflicts of interest affecting the Title IX Coordinator or any informal resolution facilitator, Investigator, Decision-Maker, or any individual resolving an appeal.

## **Notice**

Upon receiving or filing a formal complaint, the Title IX Coordinator will issue a notice to Complainant and Respondent. The notice will include: a statement of the allegations, in sufficient detail to permit Respondent to prepare a response; a statement Respondent is presumed not responsible unless a final decision is rendered against Respondent; the parties' right to inspect the formal complaint and all evidence gathered during any investigation; the parties' right to be represented by an advisor or advocate, who may be an attorney; and, any provision in the School District's Student Code of Conduct prohibiting knowingly making a false statement or providing false evidence or information. If, during the investigation, the School District decides to investigate allegations that were not included in the original notice, the Title IX Coordinator will notify Complainant and Respondent of the additional allegations.

## **Dismissal**

The Title IX Coordinator must dismiss a formal complaint if the allegations: do not establish sexual harassment even if they are true; did not occur in connection with the School District's programs and services; or, did not occur in the United States. The Title IX Coordinator may dismiss a formal complaint, in whole or in part, if: Complainant withdraws some or all of the allegations; Respondent's employment or enrollment in the School District ends; or, specific circumstances prevent the School District from gathering sufficient relevant evidence to reach a decision disposing of the formal complaint. The School District's Title IX Coordinator will notify Complainant and Respondent, in writing, if a formal complaint is dismissed, including an explanation for the dismissal. The Complainant may appeal the dismissal.

## **Informal Resolution**

The School District cannot informally resolve an allegation of sexual harassment before a formal complaint is filed. The allegations in a formal complaint may not be resolved informally unless: Claimant and Respondent have been provided notice of their rights by delivery of the applicable anti-harassment policy and 8007.3-AR; and, Claimant and Respondent have voluntarily consented to informal resolution, in writing, after having been informed when informal resolution may preclude the resumption of a formal complaint investigation. Informal resolution may consist of a voluntary agreement between Claimant and Respondent, facilitated and documented by the Title IX Coordinator, or his/her designee; restorative practices, such as described at [MCL 380.1310c](#); or, facilitative mediation by an experienced mediator. Informal resolution may also be reached through other conflict resolution strategies, including arbitration. Informal resolution may not be used to resolve an allegation that a School District employee sexually harassed a student.

## **Investigation**

The Title IX Coordinator, or designee (the Investigator), will investigate a formal complaint. The burden of undertaking and completing the investigation rests on the School District. The Investigator will be appointed within two (2) days from the date the Title IX Coordinator receives or files the formal complaint. The Investigator will presume Respondent is not responsible unless a final decision against Respondent is reached. The Investigator will not require, seek, or rely on privileged information without consent of the privilege-holder.

The Investigator will notify Respondent of his/her right to file a written response to the formal complaint within five (5) days from the date Respondent received the formal complaint. Regardless whether Respondent files a written response, the Investigator will, within ten (10) days, complete an investigation that will include, but not be limited to: interviewing Complainant and Respondent and preparing interview summaries; interviewing all actual and potentially relevant witnesses identified by Complainant and Respondent, including expert witnesses, and preparing interview summaries; obtaining, to the extent they are available, all relevant documents, data, and other items identified by Claimant, Respondent, and witnesses; preparing an investigative report that fairly summarizes the relevant evidence; and, providing the investigative report to the parties simultaneously. The parties and their advisors may attend party interviews and the Investigator will provide sufficient notice to permit them to prepare. The School District will not interfere with the parties' ability to discuss the allegations or gather and present evidence, except to the extent a no-contact or similar order has been issued by the Title IX Coordinator.

The Title IX Coordinator will, upon receiving the Investigator's Report, notify the parties of their right to: submit relevant written questions to parties and witnesses, receive answers, and submit limited follow-up questions; and, after any such answers are received, file a written response to the Investigator's Report within seven (7) days from

such receipt. If the Investigator declines to submit a question, s/he will provide a written explanation to the party who posed it.

The Title IX Coordinator may permit an adjournment of the investigative timelines for good cause and, in the event of an adjournment, so notify Complainant and Respondent. Separately, if Respondent is a School District employee, the Title IX Coordinator will review any applicable collective bargaining agreement and grant any required adjournment of the investigative timelines.

### **Decision**

The Title IX Coordinator will appoint a Decision-Maker, who is not the Title IX Coordinator or Investigator. The Decision-Maker will objectively review all inculpatory and exculpatory evidence gathered during the investigation including, but not limited to, the formal complaint, Respondent's response, if any, the Investigator's entire file and investigative report, and the parties' responses to the investigative report, if any. Credibility determinations, if any, will not be based on an individual's status as Complainant, Respondent, or witness. The Decision-Maker will not hold Respondent responsible unless a preponderance of the evidence establishes Respondent sexually harassed Complainant. Regardless whether the Decision-Maker concludes Respondent is responsible, the Decision-Maker will issue a decision within ten (10) days of his/her appointment and will provide the decision to Complainant and Respondent simultaneously. The decision will include: Complainant's allegations; procedural steps taken with respect to the allegations, including notifications, interviews, site visits, and any other methods used to gather evidence; findings of fact; the application of the applicable anti-harassment policy, this 10003.4-AR, and the School District's Student Code of Conduct to the facts; and, a statement of all rationale for the result as to each allegation, including determinations of responsibility, disciplinary sanctions, whether Complainant will be provided remedies to restore or preserve his/her equal access to the School District's education programs and activities, and the procedure and bases for appeal. Upon a finding of responsibility, sanctions for Respondent-students may range from administrative intervention to permanent expulsion. Sanctions for Respondent-employees may range from counseling to discharge. Sanctions for Respondent-Board members may range from censure to a petition to the Governor for removal from the Board of Education.

### **Appeal**

Complainant or Respondent may appeal the Decision-Maker's decision by filing an appeal with the Superintendent within five (5) days from receipt of the decision. The Superintendent will provide notice to the opposite party if an appeal is filed, including a copy of the appeal and an opportunity to respond. The appeal must include all of the reasons the appealing party disagrees with the decision. The Superintendent will review the appeal and, based on the appeal, the decision, and the entire record upon which the decision is based, will affirm the decision, in whole or in part, or reverse the decision, in whole or in part. The Superintendent may reverse the decision, in whole or in part: based on procedural irregularity affecting the outcome, including the failure to comply with

10003.4-AR; the Decision-Maker's lack of knowledge of newly discovered evidence; or, bias or conflict of interest on the part of the Title IX Coordinator, Investigator, or Decision-Maker. The Superintendent may, if warranted, remand the decision, in whole or in part, for additional investigation by the original or a different Investigator and/or further consideration by the original or a different Decision-Maker. The Superintendent will issue his/her decision within ten (10) days of receiving the appeal or response, if any, and provide his/her decision to the parties simultaneously.

The grievance process is complete and a final decision is reached when no timely appeal is taken or after the appeal process is completed.

### **Training**

The Title IX Coordinator will ensure that s/he and all informal resolution facilitators, Investigators, and Decision-Makers (including those who resolve appeals) receive the following training: the definition of sexual harassment; the scope of the School District's programs and activities; how to determine whether information and evidence is relevant, including the application of Title IX's "rape-shield" provision; the grievance process, including how to conduct an investigation, how to prepare a fair summary of evidence gathered during an investigation, how to prepare a decision, and how to resolve an appeal; and, how to serve impartially, including avoiding prejudgment of facts, conflicts of interest, and bias. The Title IX Coordinator is responsible for ensuring the School District's training and training materials are posted on the School District's website.

### **Confidentiality and Retaliation**

Except as required or permitted by law, the School District will keep confidential the identity of any individual who makes a report or complaint of sexual harassment, any individual who is identified as a potential or actual Complainant or Respondent, and any witness. Neither the School District nor any other person may illegally retaliate against an individual who has made a report or a formal complaint or has participated or refused to participate in an investigation or other proceeding under this Administrative Regulation. Retaliation includes actual and attempted threats, coercion, or discrimination.

### **Filing with OCR or EEOC**

An employee or student alleging harassment may, at any time, file a complaint with the United States Department of Education Office for Civil Rights at:

United States Department of Education Office for Civil Rights  
Cleveland Office  
1350 Euclid Avenue, Suite 325  
Cleveland, Ohio 44115  
(216) 522-4970  
FAX: (216) 522-2573  
TDD: (216) 522-4944  
E-mail:[OCR.Cleveland@ed.gov](mailto:OCR.Cleveland@ed.gov) Web: <http://www.ed.gov/ocr>

An employee alleging sexual harassment against another employee or supervisor may also, or instead, file a complaint with:

United States Department of Labor  
Equal Employment Opportunity Commission Detroit Field Office  
477 Michigan Avenue, Room 865  
Detroit, Michigan 48226 or

State of Michigan Department of Civil Rights  
Cadillac Place, Suite 3-600 3054 West Grand Boulevard  
Detroit, Michigan 48202

### **Cooperation with Law Enforcement Agencies**

In certain instances, an allegation of sexual harassment may be investigated as a criminal matter. To the extent permitted by law, the School District will comply with law enforcement requests for cooperation.

### **Record Retention**

The School District will retain, for at least seven (7) years: all training materials; all reports received by the Title IX Coordinator and actions taken in response to such reports, including why any decision not to provide supportive services was not clearly unreasonable; and, all formal complaints, documents, and other items (including data) arising from formal complaints or investigations conducted pursuant to this Administrative Regulation, including investigative reports and related documents, decisions, appeals and appeal decisions, and informal resolutions.